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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/686,443	10/14/2003	Gene Anderson	335.1003	6870
23280	7590	03/23/2005		
DAVIDSON, DAVIDSON & KAPPEL, LLC 485 SEVENTH AVENUE, 14TH FLOOR NEW YORK, NY 10018			EXAMINER HENDERSON, MARK T	
			ART UNIT 3722	PAPER NUMBER
DATE MAILED: 03/23/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

<b>Office Action Summary</b>	<b>Application No.</b> 10/686,443	<b>Applicant(s)</b> ANDERSON, GENE	
	<b>Examiner</b> Mark T Henderson	<b>Art Unit</b> 3722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 June 2004.  
 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 16-31 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☒ Claim(s) 16-31 is/are rejected.  
 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:  
         1. ☐ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
     \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>Attachment I</u> .                     |

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## **DETAILED ACTION**

### **Faxing of Responses to Office Actions**

In order to reduce pendency and avoid potential delays, TC 3700 is encouraging FAXing of responses to Office Actions directly into the Group at (703)872-9306. This practice may be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into TC 3700 will be promptly forwarded to the examiner.

1. Claims 1-15 have been canceled.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 16-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

2. Claim 16 recites the limitation "the form" in line 8. There is insufficient antecedent basis for this limitation in the claim.
3. Claim 22 recites the limitation "the range" in line 2. There is insufficient antecedent basis for this limitation in the claim.
4. Claim 23 recites the limitation "the range" in line 2. There is insufficient antecedent basis for this limitation in the claim.
5. Claim 24 recites the limitation "the range" in line 24. There is insufficient antecedent basis for this limitation in the claim.
6. Claim 30 recites the limitation "the area" in line 3. There is insufficient antecedent basis for this limitation in the claim.
7. Claim 31 recites the limitation "the corners" in line 1. There is insufficient antecedent basis for this limitation in the claim.

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*Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 16, 17, 20, 25, and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Buxton (2,161,015).

Buxton discloses in Fig. 1, 2 and in Attachment I, a notebook comprising; a base (cover portion (A), in Fig. 1) of flexible material of leather or plastic having a front side (see also Fig. 1) and a rear side(not shown); having a first side edge (A1), a second side edge (A2), a first peripheral edge (A3); a first retaining device (12) of a thin strip of material being disposed at a first distance (L1) from the first peripheral edge (A3) and extending from the first edge (A1) to the second edge (A2) which is parallel to the peripheral edge; a second retaining device (13) in the form of a sheet having a different size and provided at a second distance (L2) from the first peripheral edge (A3) and which extends from the first edge (A1) to the second edge (A2); wherein the first or second retaining device are stitched to the base; a further pocket -shaped retaining device (14).

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***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 22, 23, 24, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Buxton.

Buxton discloses a notebook comprising all the elements as claimed in Claim 16, and as set forth above. However, Buxton does not disclose wherein the base has a width in the range of 82mm, a height of 134mm; and wherein the first distance is in the range of 100mm.

It would have been an obvious matter of design choice to construct the notebook in any desirable size, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. Therefore, it would have been obvious to construct the notebook in any size dimension, since applicant has not disclosed the criticality of particular size dimensions, and the invention would function equally as well in any size.

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10. Claims 27-31, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Buxton in view of Parisi (3,058,506).

Buxton discloses a notebook comprising all the elements as claimed in Claim 16, and as set forth above. However, Buxton does not disclose: a first pocket on the rear side of the base, having an arc-shaped cutout; a second pocket on the rear of the base; wherein one of the corner of the second pocket has an arc-shaped cutout.

Parisi discloses in Fig. 1 and 2, a notebook comprising a base (30) having a pocket (54) on the rear side of the base with an arc-shaped cut-out (see Fig. 1 and 4).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Buxton's notebook with a pocket placed on the rear side of the base as taught by Parisi for the purpose of holding additional items within the notebook.

In regards to **Claims 29 and 30**, it would have been obvious to one having ordinary skill in the art at the time the invention was made to place as many pockets on the rear side as desired, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. Therefore, it would have been obvious to include as many pocket on the rear side as desired, since applicant has not disclosed the criticality of having a particular number of pockets on the notebook, and invention would function equally as well with any number.

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***Allowable Subject Matter***

11. Claims 18 and 19 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Prior Art References***

The prior art references listed in the attached PTO-892, but not used in a rejection of the claims, are cited for (their/its) structure. Grimsley and Graham disclose similar notebooks having pockets.

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**Contact Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark T. Henderson whose telephone number is (571)272-4477. The examiner can be reached on Monday - Friday from 7:30 AM to 3:45 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner supervisor, Derris Banks, can be reached on (571) 272-4419. The fax number for TC 3700 is (703)-872-9306.



MTH

March 20, 2005



**DERRIS H. BANKS**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 3700**

June 6, 1939.

W. R. BUXTON

2,161,015

MEMORANDUM BOOK

Filed March 19, 1937

2 Sheets-Sheet 1

Fig. 1.

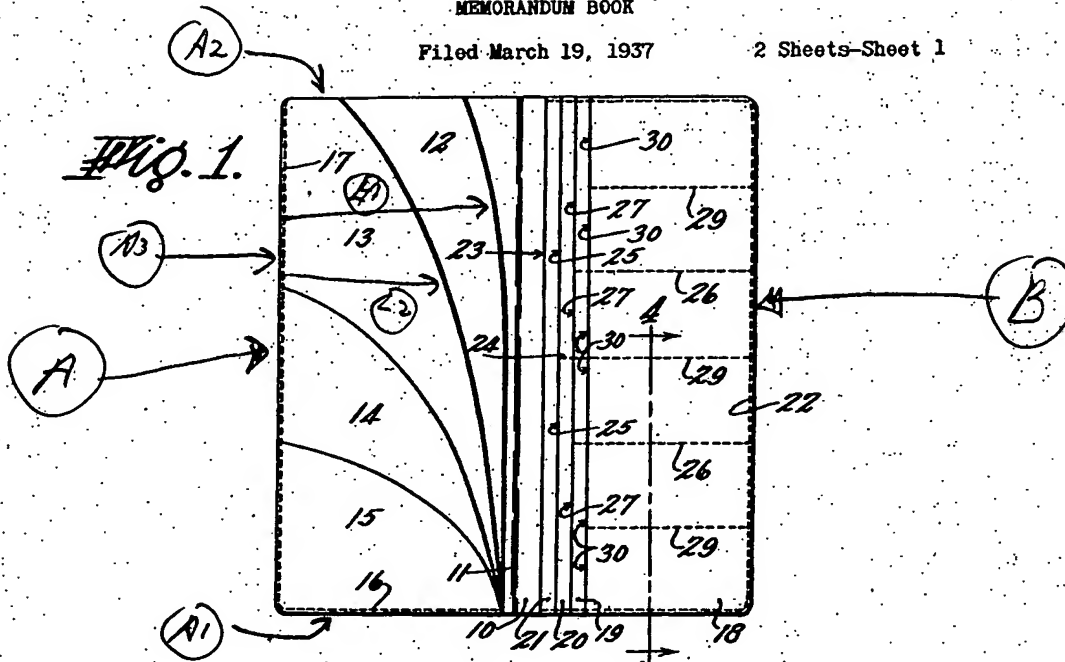


Fig. 2.

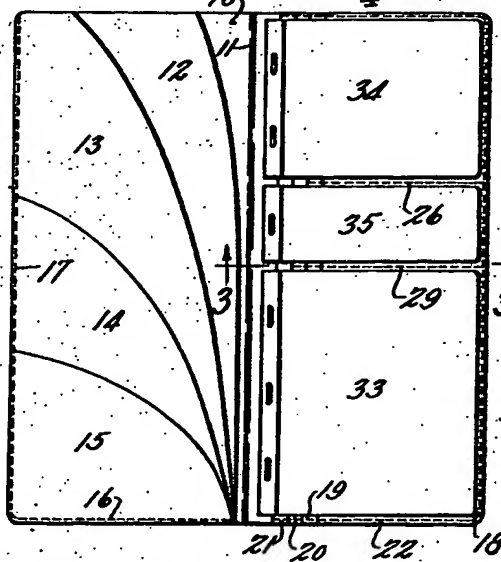


Fig. 5.

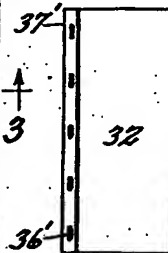
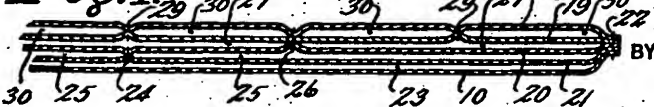


Fig. 3.



Fig. 4.



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